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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/039,947	10/25/2001	Robert C. Moore	SD6858	8459
20567	7590 02/14/2005		EXAM	INER
	ORPORATION		CINTINS,	IVARS C
P O BOX 580 MS-0161	<i>J</i> U		ART UNIT	PAPER NUMBER
ALBUQUERQUE, NM 87185-0161			1724	

DATE MAILED: 02/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.	Applicant(s)	
10/039,947	MOORE ET AL.	
Examiner	Art Unit	
Ivars C. Cintins	1724	

Before the Filing of an Appeal Brief Examiner -The MAILING DATE of this communication appears on the cover sheet with the correspondence address THE REPLY FILED 10 January 2005 FAILS TO FILACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. The reply was filed after a final rejection, but prior to filing a shotice of Appeal or avoid abandomment of this application, applicant mount timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal cell) in compliance, with 37 CFR 1.114. The reply must be filed within one of the following time periods: a) The period for reply expires om: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In one vert, however, will be stablatory period for reply expires to meet he mailing date of the Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In one vert, however, will be stablatory period for reply expires to the final rejection. Examiner Note: If box is checked, check sither box (3) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN Examinous of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate administration of the date of MoNTHS OFT EFF final, RELECTION See IMPE? POSITION of the petition under 37 CFR 1.136(a) and the appropriate administration of the date of the seed of the final rejection, even if timely filed, may reduce any examined patient from a disputement. See 37 CFR 1.136(a) and the petition of the date of filing an appeal brief. The Notice of Appeal (37 CFR 4.137(a)) and administration of the date of filing an Notice of Appeal was filed on	Defensed By C. A. and Direct				
THE REPLY FILEO 10_January 2005 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. I See The PREPLY FILEO 10_January 2005 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. I See The Preplace of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for sillowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 4.1.3; or (3) a Repeal for the preplace of the following time periods: a manual time of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for sillowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 4.1.3; or (3) a Repeal for the final rejection. D The period for reply expires con; (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will be statutory period for reply expires con; (1) the mailing date of the final rejection. Examiner Note: If box 1 is checked, check either box (3) or (b), CNLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN Extensions of time may be obtained under 37 CFR 1.13(e). The clade on which the petition under 37 CFR 1.13(e) and the applicate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the files. The appropriate extension fee have been filed is the date for purposes of determining the period of extensions and the corresponding amount of the files. The appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the files. The appropriate extension fee under 37 CFR 1.13(e) is calculated form; (1) the expression date of the shortened statutory gened for reply originally set in the file for extension fee under 37 CFR 1.13(e) is calculated form; (1) the corresponding amount of the files in the files of the fi	Before the Filing of an Appeal Brief	Examiner	Art Unit		
THE REPLY FILED 10_January 2005 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. 1. ② The reply was filed after a final rejection, but prior to fling a Notice of Appeal. To avoid abandonment of the application, applicant user timely, filed and the filed prior application of the condition of allowance; (a) Notice of Appeal (with in sequence of the condition of allowance; (b) Notice of Appeal (with in sequence of the condition of the following time periods: a condition for allowance; (b) Notice of Appeal (with in sequence of the condition of the following time periods: a condition of the following time period for the following time periods: a condition of the following time periods: a co		Ivars C. Cintins	1724		
1. ☑ The reply was filed after a final rejection, but prior to filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies; (1) an amendment, affidiant, or other evidence, which places the polication in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 4.11.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 4.11.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 4.11.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 4.11.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 4.13.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 4.13.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 4.13.31; or (3) a Request for Continued Examination (RCE) in Continued (R	The MAILING DATE of this communication appe	ears on the cover sheet with the d	correspondence add	ress	
must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 4.1.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 4.1.14. The reply must be filed within one of the following time periods: a) The period for reply expires	THE REPLY FILED 10 January 2005 FAILS TO PLACE THIS A	APPLICATION IN CONDITION FOR	R ALLOWANCE.		
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TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f). Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b). NOTICE OF APPEAL The reply was filed after the date of filing a Notice of Appeal, but prior to the date of filing an appeal brief. The Notice of Appeal was filed on A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)). or any extension thereof (37 CFR 41.37(a)), to avoid dismissal of the appeal. Since a Notice of Appeal as been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a). AMENDMENTS MENDMENTS Men proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because (a) They raise new issues that would require further consideration and/or search (see NOTE below); (b) They raise new issues of new matter (see NOTE below); (c) They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or (d) They are not deemed to place the application in better form for appeal by materially rejected claims. NOTE: See Continuation Sheet. (See 37 CFR 1.116 and 41.33(a)). A poplicant's reply has overcome the following rejection(s): A poplicant's reply has overcome the following rejection(s): A poplicant's reply has overcome the following rejection sh	b) The period for reply expires on: (1) the mailing date of this A no event, however, will the statutory period for reply expire to the content of the co	Advisory Action, or (2) the date set forth ater than SIX MONTHS from the mailin	g date of the final rejecti	on.	
Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration dete of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office determining amount of the received in the properties of the properti			E FIRST REPLY WAS F	ILED WITHIN	
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AMENDMENTS 3. ☑ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because (a) ☑ They raise new issues that would require further consideration and/or search (see NOTE below); (b) ☐ They raise the issue of new matter (see NOTE below); (c) ☑ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or (d) ☑ They present additional claims without canceling a corresponding number of finally rejected claims. NOTE: See Continuation Sheet. (See 37 CFR 1.116 and 41.33(a)). 4. ☑ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324). 5. ☐ Applicant's reply has overcome the following rejection(s): 6. ☐ Newly proposed or amended claim(s) would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s). 7. ☑ For purposes of appeal, the proposed amendment(s): a) ☑ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended. The status of the claim(s) is (or will be) as follows: Claim(s) allowed: 2-22,24,25,27-30,33-37,39-43,46-52,54 and 56-65. Claim(s) objected to:	2. The reply was filed after the date of filing a Notice of Appeal, but prior to the date of filing an appeal brief. The Notice was filed on A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice				
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(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims. NOTE: See Continuation Sheet. (See 37 CFR 1.116 and 41.33(a)). 4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324). 5. ☐ Applicant's reply has overcome the following rejection(s): 6. ☐ Newly proposed or amended claim(s) would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s). 7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended. The status of the claim(s) is (or will be) as follows: Claim(s) allowed: 2-22.24.25.37.33.33-37.39-43.46-52.54 and 56-65. Claim(s) eljected to:	(a) ∑ They raise new issues that would require further co	nsideration and/or search (see NO		ecause	
NOTE: See Continuation Sheet. (See 37 CFR 1.116 and 41.33(a)). 4. \[\] The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324). 5. \[\] Applicant's reply has overcome the following rejection(s): 6. \[\] Applicant's reply has overcome the following rejection(s): 8. \[\] Applicant's reply has overcome the following rejection(s): 8. \[\] Newly proposed or amended claim(s) would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s). 8. \[\] For purposes of appeal, the proposed amendment(s): a) \[\] Will not be entered, or b) \[\] will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended. 8. \[\] The status of the claim(s) is (or will be) as follows: 8. \[\] The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e). 9. \[\] The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence filed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why as not earlier presented. See 37 CFR 1.13(e). 10. \[\] The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached. 8. \[\] The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached. 8. \[\] The request for reconsideration has been considered but does NOT place the application in condition for allowance because: 12. \[\] Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s).	(c) They are not deemed to place the application in be appeal; and/or	tter form for appeal by materially re		the issues for	
 4.			ected claims.		
 5. ☐ Applicant's reply has overcome the following rejection(s):		* **			
 6. Newly proposed or amended claim(s) would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s). 7. For purposes of appeal, the proposed amendment(s): a) will not be entered, or b) will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended. The status of the claim(s) is (or will be) as follows:			mpliant Amendment	(PTOL-324).	
 7.	6. Newly proposed or amended claim(s) would be a		timely filed amendme	ent canceling the	
Claim(s) allowed: 2-22,24,25,27-30,33-37,39-43,46-52,54 and 56-65. Claim(s) objected to:	7. For purposes of appeal, the proposed amendment(s): a) how the new or amended claims would be rejected is pro		ll be entered and an e	explanation of	
Claim(s) withdrawn from consideration: AFFIDAVIT OR OTHER EVIDENCE 8. The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e). 9. The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1). 10. The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached. REQUEST FOR RECONSIDERATION/OTHER 11. The request for reconsideration has been considered but does NOT place the application in condition for allowance because: 12. Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s)	Claim(s) allowed: <u>2-22,24,25,27-30,33-37,39-43,46-52,54</u> Claim(s) objected to:	<u>4 and 56-65</u> .			
 8.	Claim(s) withdrawn from consideration:				
because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e). 9. The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1). 10. The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached. REQUEST FOR RECONSIDERATION/OTHER 11. The request for reconsideration has been considered but does NOT place the application in condition for allowance because: 12. Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). 13. Other: 14. Other: 15. Other: 16. Other: 17. Other: 18. Other: 19. Other: 19. Other: 19. Other: 10. Other: 10. Other: 11. Other: 12. Primary Examiner			•		
entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1). 10. The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached. REQUEST FOR RECONSIDERATION/OTHER 11. The request for reconsideration has been considered but does NOT place the application in condition for allowance because: 12. Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). 13. Other: 14. Vars C. Cintins Primary Examiner	because applicant failed to provide a showing of good an	nt before or on the date of filing a North d sufficient reasons why the affidate and the date of filing a North date of fil	otice of Appeal will <u>no</u> rit or other evidence is	ot be entered s necessary and	
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11. The request for reconsideration has been considered but does NOT place the application in condition for allowance because: 12. Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). 13. Other: Value of the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). Value of the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). Value of the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). Value of the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). Value of the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). Value of the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). Value of the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s).		n of the status of the claims after e	ntry is below or attact	iea.	
13. Other: Ivas C. Cintins Primary Examiner		it does NOT place the application in	n condition for allowa	nce because:	
13. Other: Ivas C. Cintins Primary Examiner	12. Note the attached Information Disclosure Statement(s).	(PTO/SB/08 or PTO-1449) Paper N	lo(s)		
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Continuation Sheet (PTO-303)

Application No. 10/039,947

Continuation of 3. NOTE: The proposed amendment to claim 23, i.e. that the magnesium hydroxide is "coated" on the surface of the carrier particle, instead of merely "disposed" on the surface of this carrier particle, raises new issues requiring further search and consideration. Also, the proposed amendments to claim 32, reciting a specific carbonate concentration and specific time periods, raise new issues requiring further search and consideration. Furthermore, Applicant has proposed a new claim (i.e. claim 66) without canceling any finally rejected claim.

Notice of Non-Compliant Amendment (37 CFR 1.121)

Application No.	Applicant(s)
10/039,947	MOORE ET AL.
Examiner	Art Unit
Ivars C. Cintins	1724

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

The amendment document filed on <u>10 January 2005</u> is considered non-compliant because it has failed to meet the requirements of 37 CFR 1.121. In order for the amendment document to be compliant, correction of the following item(s) is required.

·
THE FOLLOWING MARKED (X) ITEM(S) CAUSE THE AMENDMENT DOCUMENT TO BE NON-COMPLIANT: 1. Amendments to the specification: A. Amended paragraph(s) do not include markings. B. New paragraph(s) should not be underlined. C. Other
 2. Abstract: A. Not presented on a separate sheet. 37 CFR 1.72. B. Other
 3. Amendments to the drawings: A. The drawings are not properly identified in the top margin as "Replacement Sheet," "New Sheet," or "Annotated Sheet" as required by 37 CFR 1.121(d). B. The practice of submitting proposed drawing correction has been eliminated. Replacement drawings showing amended figures, without markings, in compliance with 37 CFR 1.84 are required. C. Other
 ✓ 4. Amendments to the claims: ☐ A. A complete listing of all of the claims is not present. ☐ B. The listing of claims does not include the text of all pending claims (including withdrawn claims) ☐ C. Each claim has not been provided with the proper status identifier, and as such, the individual status of each claim cannot be identified. Note: the status of every claim must be indicated after its claim number by using one of the following status identifiers: (Original), (Currently amended), (Canceled), (Previously presented), (New), (Not entered), (Withdrawn) and (Withdrawn-currently amended). ☐ D. The claims of this amendment paper have not been presented in ascending numerical order. ☐ E. Other: Claims 6 and 7 have the status identifier "PREVIOUSLY PRESENTED" but include markings (it a strikethrough) for the term "is" which would indicate that these claims are being currently amended.

For further explanation of the amendment format required by 37 CFR 1.121, see MPEP § 714 and the USPTO website at http://www.uspto.gov/web/offices/pac/dapp/opla/preognotice/officeflyer.pdf.

TIME PERIODS FOR FILING A REPLY TO THIS NOTICE:

- 1. Applicant is given no new time period if the non-compliant amendment is an after-final amendment or an amendment filed after allowance. If applicant wishes to resubmit the non-compliant after-final amendment with corrections, the entire corrected amendment must be resubmitted within the time period set forth in the final Office action.
- 2. Applicant is given **one month**, or thirty (30) days, whichever is longer, from the mail date of this notice to supply the **corrected section** of the non-compliant amendment in compliance with 37 CFR 1.121, if the non-compliant amendment is one of the following: a preliminary amendment, a non-final amendment (including a submission for a request for continued examination (RCE) under 37 CFR 1.114), a supplemental amendment filed within a suspension period under 37 CFR 1.103(a) or (c), and an amendment filed in response to a *Quayle* action.

<u>Extensions of time</u> are available under 37 CFR 1.136(a) <u>only</u> if the non-compliant amendment is a non-final amendment or an amendment filed in response to a *Quayle* action.

Failure to timely respond to this notice will result in:

Abandonment of the application if the non-compliant amendment is a non-final amendment or an amendment filed in response to a *Quayle* action; or

Non-entry of the amendment if the non-compliant amendment is a preliminary amendment or supplemental amendment.